

104TH CONGRESS
2D SESSION

S. 2157

To amend the Solid Waste Disposal Act to provide for the efficient collection and recycling of spent lead-acid batteries and educate the public concerning the collection and recycling of such batteries, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 1996

Mr. SMITH introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Solid Waste Disposal Act to provide for the efficient collection and recycling of spent lead-acid batteries and educate the public concerning the collection and recycling of such batteries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lead-Acid Battery Re-
5 cycling Act”.

1 **SEC. 2. RECYCLING OF LEAD-ACID BATTERIES.**

2 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-
3 posal Act (42 U.S.C. 6941 et seq.) is amended by adding
4 at the end the following:

5 **“SEC. 4011. RECYCLING OF LEAD-ACID BATTERIES.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) LEAD-ACID BATTERY.—The term ‘lead-
8 acid battery’ means a battery that—

9 “(A) contains lead and sulfuric acid;

10 “(B) is used as a power source; and

11 “(C) is not a rechargeable battery.

12 “(2) MUNICIPAL SOLID WASTE.—The term
13 ‘municipal solid waste’ means—

14 “(A) solid waste generated by the general
15 public or from a residential, commercial, insti-
16 tutional, or industrial source, consisting of
17 paper, wood, yard waste, plastics, leather, rub-
18 ber, and other combustible material and non-
19 combustible material such as metal and glass,
20 including residue remaining after recyclable ma-
21 terial has been separated from waste destined
22 for disposal, and including waste material re-
23 moved from a septic tank, septage pit, or cess-
24 pool (other than from portable toilets); but

25 “(B) does not include—

1 “(i) waste identified or listed as a
2 hazardous waste under section 3001 of this
3 Act or waste regulated under the Toxic
4 Substances Control Act (15 U.S.C. 2601
5 et seq.);

6 “(ii) waste, including contaminated
7 soil and debris, resulting from a response
8 action taken under section 104 or 106 of
9 the Comprehensive Environmental Re-
10 sponse, Compensation, and Liability Act of
11 1980 (42 U.S.C. 9604, 9606) or any cor-
12 rective action taken under this Act;

13 “(iii) medical waste listed in section
14 11002;

15 “(iv) industrial waste generated by
16 manufacturing or industrial processes, in-
17 cluding waste generated during scrap proc-
18 essing and scrap recycling;

19 “(v) recyclable material; or

20 “(vi) sludge.

21 “(3) RECHARGEABLE BATTERY.—The term ‘re-
22 chargeable battery’—

23 “(A) means 1 or more voltaic or galvanic
24 cells, electrically connected to produce electric

1 energy, that is designed to be recharged for re-
2 peated uses; and

3 “(B) includes any type of enclosed device
4 or sealed container consisting of 1 or more such
5 cells, including what is commonly called a bat-
6 tery pack; but

7 “(C) does not include—

8 “(i) a battery that is used to start an
9 internal combustion engine or is used as
10 the principal electrical power source for a
11 vehicle, such as an automobile, truck, con-
12 struction equipment, motorcycle, garden
13 tractor, golf cart, wheelchair, or boat;

14 “(ii) a battery that is used for load
15 leveling or for storage of electricity gen-
16 erated by an alternative energy source,
17 such as a solar cell or wind-driven genera-
18 tor;

19 “(iii) a battery that is used as a
20 backup power source for memory or pro-
21 gram instruction storage, timekeeping, or
22 any similar purpose that requires uninterr-
23 rupted electrical power in order to function
24 if the primary energy supply fails or fluc-
25 tuates momentarily; or

1 “(iv) a rechargeable alkaline battery.

2 “(b) PROHIBITION.—

3 “(1) IN GENERAL.—A person shall not—

4 “(A) place a lead-acid battery in a landfill;

5 “(B) incinerate a lead-acid battery; or

6 “(C) otherwise dispose of a lead-acid bat-
7 tery in a manner other than in accordance with
8 subsection (c).

9 “(2) COMMINGLED WASTE.—A person that is
10 an owner or operator of a municipal solid waste
11 landfill, incinerator, or collection program that re-
12 ceives a lead-acid battery that—

13 “(A) is commingled with municipal solid
14 waste (other than lead-acid batteries); and

15 “(B) is not readily removable from the
16 waste stream,

17 shall not be considered to violate paragraph (1) if
18 the owner or operator has established contractual re-
19 quirements or other appropriate notification or in-
20 spection procedures that are reasonably designed to
21 ensure that no lead-acid battery is received at, or
22 burned in, the landfill or incinerator facility or ac-
23 cepted through the collection program.

24 “(c) LAWFUL DISPOSAL.—

25 “(1) BY PERSONS IN GENERAL.—

1 “(A) IN GENERAL.—A person (other than
2 a person described in paragraph (2), (3), or
3 (4)) shall return a spent lead-acid battery by
4 delivering the battery to 1 of the authorized re-
5 cipients described in subparagraph (B).

6 “(B) AUTHORIZED RECIPIENTS.—The au-
7 thorized recipients described in this subpara-
8 graph are—

9 “(i) a person that sells lead-acid bat-
10 teries at retail or wholesale;

11 “(ii) a lead smelter regulated by a
12 State or the Administrator under this Act
13 or the Clean Air Act (42 U.S.C. 7401 et
14 seq.);

15 “(iii) an automotive dismantler or
16 scrap dealer (as defined by the Adminis-
17 trator);

18 “(iv) a collection entity, program, or
19 facility designated by a State to accept
20 spent lead-acid batteries; and

21 “(v) a manufacturer of lead-acid bat-
22 teries of the same general type as the type
23 delivered.

24 “(2) BY RETAILERS.—

1 “(A) IN GENERAL.—A person that sells
2 lead-acid batteries at retail shall return a spent
3 lead-acid battery by delivering the battery to 1
4 of the authorized recipients described in sub-
5 paragraph (B).

6 “(B) AUTHORIZED RECIPIENTS.—The au-
7 thorized recipients described in this subpara-
8 graph are—

9 “(i) a person that sells lead-acid bat-
10 teries at wholesale;

11 “(ii) a lead smelter regulated by a
12 State or the Administrator under this Act
13 or the Clean Air Act (42 U.S.C. 7401 et
14 seq.);

15 “(iii) an automotive dismantler or
16 scrap dealer (as defined by the Adminis-
17 trator);

18 “(iv) a manufacturer of lead-acid bat-
19 teries of the same general type as the type
20 delivered; and

21 “(v) a collection entity, program, or
22 facility designated by a State to accept
23 spent lead-acid batteries.

1 “(3) BY WHOLESALERS, AUTOMOTIVE DISMAN-
 2 TLERS, AND COLLECTION PROGRAMS, ENTITIES AND
 3 FACILITIES.—

4 “(A) IN GENERAL.—A person that sells
 5 lead-acid batteries at wholesale, an automotive
 6 dismantler, and a collection entity, program, or
 7 facility designated by a State to accept spent
 8 lead-acid batteries shall return a spent lead-acid
 9 battery by delivering the battery to 1 of the au-
 10 thorized recipients described in subparagraph
 11 (B).

12 “(B) AUTHORIZED RECIPIENTS.—The au-
 13 thorized recipients described in this subpara-
 14 graph are—

15 “(i) a lead smelter regulated by a
 16 State or the Administrator under this Act
 17 or the Clean Air Act (42 U.S.C. 7401 et
 18 seq.); and

19 “(ii) a manufacturer of lead-acid bat-
 20 teries of the same general type as the type
 21 delivered.

22 “(4) BY MANUFACTURERS.—

23 “(A) IN GENERAL.—A person that manu-
 24 factures lead-acid batteries shall return a spent
 25 lead-acid battery by delivering the battery to

1 the authorized recipient described in subpara-
2 graph (B).

3 “(B) AUTHORIZED RECIPIENT.—The au-
4 thorized recipient described in this subpara-
5 graph is a lead smelter regulated by a State or
6 the Administrator under this Act or the Clean
7 Air Act (42 U.S.C. 7401 et seq.).

8 “(d) COLLECTION REQUIREMENTS.—

9 “(1) RETAILERS.—

10 “(A) IN GENERAL.—A person that sells or
11 offers for sale lead-acid batteries at retail shall
12 accept spent lead-acid batteries of the same
13 general type as the batteries sold in a quantity
14 that is approximately equal to the number of
15 batteries sold.

16 “(B) EXEMPTION.—Subparagraph (A)
17 shall not apply to a retailer that sells not more
18 than 5 lead-acid batteries per month on average
19 over a calendar year, if a collection entity, pro-
20 gram, or facility is in operation for the collec-
21 tion of spent lead-acid batteries in the locality
22 of the retailer.

23 “(2) WHOLESALERS.—

24 “(A) IN GENERAL.—A person that sells or
25 offers for sale lead-acid batteries at wholesale

1 shall accept spent lead-acid batteries of the
2 same general type as the batteries sold and in
3 a quantity approximately equal to the number
4 of batteries sold.

5 “(B) ACCEPTANCE FROM RETAILERS.—A
6 wholesaler that sells or offers for sale lead-acid
7 batteries to a retailer shall provide for the re-
8 moval of spent lead-acid batteries at the place
9 of business of the retailer—

10 “(i) not later than 90 days after the
11 retailer notifies the wholesaler of the exist-
12 ence of the spent lead-acid batteries for re-
13 moval; or

14 “(ii) if the quantity of batteries to be
15 removed is less than 5, not later than 180
16 days after notification.

17 “(3) MANUFACTURERS.—A person that manu-
18 factures lead-acid batteries shall accept spent lead-
19 acid batteries of the same general type as the bat-
20 teries sold and in a quantity approximately equal to
21 the number of batteries sold.

22 “(e) NOTICE REQUIREMENTS.—

23 “(1) POSTED NOTICE BY RETAILERS.—A per-
24 son that sells or offers for sale lead-acid batteries at
25 retail shall post a written notice that—

1 “(A) is clearly visible in a public area of
2 the establishment in which the lead-acid bat-
3 teries are sold or offered for sale;

4 “(B) is at least 8½ inches by 11 inches in
5 size; and

6 “(C) contains the following text:

7 “(i) It is illegal to throw away a
8 motor vehicle battery or other lead-acid
9 battery.

10 “(ii) Recycle your used lead-acid bat-
11 teries.

12 “(iii) Federal (or State) law requires
13 battery retailers to accept used lead-acid
14 batteries for recycling when a lead-acid
15 battery is purchased.

16 “(2) STATE REQUIREMENTS.—Nothing in para-
17 graph (1) shall be construed to prohibit a State from
18 requiring the posting of substantially similar notice
19 in lieu of that required under paragraph (1).

20 “(3) LABELING.—

21 “(A) IN GENERAL.—Each lead-acid battery
22 manufactured on or after the date that is 1
23 year after the date of enactment of this Act,
24 whether produced domestically or imported,
25 shall bear a label comprised of—

1 “(i) the 3 chasing arrow recycling
2 symbol; and

3 “(ii) immediately adjacent to the recy-
4 cling symbol, the words ‘LEAD’, ‘RE-
5 TURN’, ‘RECYCLE’.

6 “(B) INTERNATIONAL SYMBOLS.—

7 “(i) APPLICATION.—On application by
8 a person subject to the labeling require-
9 ments of this paragraph, the Administrator
10 shall certify that a different label meets
11 the requirements of this paragraph if the
12 label conforms with a recognized inter-
13 national standard that is consistent with
14 the overall purposes of this section.

15 “(ii) FAILURE TO ACT.—If the Ad-
16 ministrator fails to act on an application
17 under clause (i) within 120 days after the
18 date on which the application is filed, the
19 Administrator shall be considered to have
20 certified that the label proposed in the ap-
21 plication meets the requirements of this
22 paragraph.

23 “(4) UNIFORMITY.—No State or political sub-
24 division of a State may enforce any labeling require-
25 ment intended to communicate information about

1 the recyclability of lead-acid batteries that is not
2 identical to the requirements contained in paragraph
3 (3).

4 “(5) RECYCLING INFORMATION.—Nothing in
5 this subsection shall be construed to prohibit the dis-
6 play on a label of a lead-acid battery of any other
7 information intended by the manufacturer to encour-
8 age recycling or warn consumers of the potential
9 hazards associated with lead-acid batteries.

10 “(f) PUBLICATION OF NOTICE.—Not later than 180
11 days after the date of enactment of this section, the Ad-
12 ministrator shall publish in the Federal Register a notice
13 of the requirements of this section and such other related
14 information as the Administrator determines to be appro-
15 priate.

16 “(g) EXPORT FOR PURPOSES OF RECYCLING.—Not-
17 withstanding any other provision of this section, a person
18 may export a spent lead-acid battery for the purposes of
19 recycling.

20 “(h) ENFORCEMENT.—The Administrator may issue
21 a warning or citation to any person that fails to comply
22 with the requirements of this section.

23 “(i) CIVIL PENALTY.—

24 “(1) IN GENERAL.—When on the basis of any
25 information the Administrator determines that a

1 person is in violation of this section, the Adminis-
2 trator—

3 “(A) in the case of a willful violation, may
4 issue an order assessing a civil penalty of not
5 more than \$1,000 for each violation and requir-
6 ing compliance immediately or within a reason-
7 able specified time period, or both; or

8 “(B) in the case of any violation, may com-
9 mence a civil action in the United States dis-
10 trict court in which the violation occurred for
11 appropriate relief, including a temporary or per-
12 manent injunction.

13 “(2) CONTENTS OF ORDER.—An order under
14 paragraph (1) shall State with reasonable specificity
15 the nature of the violation.

16 “(3) CONSIDERATIONS.—In assessing a civil
17 penalty under paragraph (1), the Administrator
18 shall take into account the seriousness of the viola-
19 tion and any good faith efforts to comply with appli-
20 cable requirements.

21 “(4) FINALITY OF ORDER; REQUEST FOR HEAR-
22 ING.—An order under paragraph (1) shall become
23 final unless, not later than 30 days after the date
24 on which the order is served, a person named in the
25 order requests a hearing on the record.

1 “(5) HEARING.—On receiving a request under
2 paragraph (4), the Administrator shall promptly
3 conduct a hearing on the record.

4 “(6) SUBPOENA POWER.—In connection with
5 any hearing on the record under this subsection, the
6 Administrator may issue subpoenas for the attend-
7 ance and testimony of witnesses and for the produc-
8 tion of relevant papers, books, and documents.

9 “(7) CONTINUED VIOLATION AFTER EXPIRA-
10 TION OF PERIOD FOR COMPLIANCE.—If a violator
11 fails to take corrective action within the time speci-
12 fied in an order under paragraph (1), the Adminis-
13 trator may assess a civil penalty of not more than
14 \$1,000 for the continued noncompliance with the
15 order.”.

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